

APPEAL NO. 032308
FILED OCTOBER 13, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 11, 2003. The hearing officer determined that the appellant's (claimant) _____, compensable injury does not include an injury to the respiratory system and/or headaches. The claimant appeals this determination on sufficiency of the evidence grounds, and asserts several points of procedural error. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant asserts error in the hearing officer's Finding of Fact No. 1. C. which provides, "Claimant sustained a compensable heat fatigue and heat exposure injury on _____." Our review of the record indicates that the parties stipulated to this finding of fact. Section 410.166 provides that an oral stipulation or agreement of the parties that is preserved in the record is final and binding. Accordingly, we will not reverse a finding consistent with the parties' stipulation, in this case, that the compensable injury included the heat fatigue and heat exposure. To be clear, the parties' stipulation is not dispositive of the issue of whether the compensable injury includes an injury to the respiratory system and/or headaches, to be addressed below.

The hearing officer did not err in determining that the compensable injury of _____, does not include an injury to the respiratory system and/or headaches. The claimant had the burden to prove a causal connection between his employment and the claimed conditions, by expert medical evidence to a reasonable medical probability. Texas Workers' Compensation Commission Appeal No. 93668, decided September 14, 1993. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer considered the evidence and determined that the claimant failed to establish that his conditions are related to his workplace environment. In view of the evidence, we cannot conclude that the hearing officer's compensability determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The claimant contends that the hearing officer failed to fully consider the evidence and demonstrated bias in reaching her decision. We find no support in the record for these contentions. Indeed, the hearing officer stated, in the "Statement of the Evidence" portion of the decision, that all of the evidence presented was considered. Additionally, the fact that the hearing officer issued a decision adverse to the claimant

does not demonstrate bias but is the prerogative of the hearing officer as the sole judge of the weight and credibility of the evidence.

The claimant requests that the carrier “be sanctioned for refusing to submit papers pertaining to the injury.” We note that the claimant was offered a continuance to obtain the requested documents. The claimant declined and proceeded with his case. Accordingly, we perceive no procedural error. The claimant may pursue his request for administrative sanctions, pursuant to Section 415.002, with the Texas Worker’s Compensation Commission’s Division of Compliance and Practices.

The decision and order of the hearing officer are affirmed.

The self-insured represents that the true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge